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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Matthew Au

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Robert D. Shedd

Thomson Licensing LLC

2 Independence Way

PRINCETON, NJ 08543-5312

EXAMINER

TILLERY, RASHAWN N

ART UNIT

PAPER NUMBER

2174

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/584,370	Applicant(s) AU ET AL.	
	Examiner RASHAWN TILLERY	Art Unit 2174	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 18-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 18-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/14/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is responsive to the Amendment filed 2/4/2009.
2. Claims 1- 7 and 18-24 are pending in this application. Claims 1 and 24 were amended and claims 25-27 were added. This action is made Final.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on 10/14/08 has been considered by the examiner.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-7 and 21-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Mercer et al ("Mercer", US7043477).

Regarding claim 1, Mercer discloses a device for playback of multimedia files, including means for changing the sorting order and/or the playback order of a plurality of multimedia files, wherein upon changing the sorting order and/or the playback order of

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the multimedia files the currently selected multimedia file is kept and the new sorting order and/or playback order is determined by at least one property of the currently selected multimedia file, and wherein the means for changing the sorting order and/or the playback order include a button for changing the order by running through a predefined sequence of properties of the currently selected multimedia file (see col. 5, lines 22-36 where shuffling and repeating play lists is discussed).

Regarding claim 2, Mercer discloses including means for giving a feedback of the sorting order and/or the playback order (see col. 5, lines 22-36 where viewing play lists is discussed).

Regarding claim 3, Mercer discloses the means for giving a feedback of the sorting order and/or the playback order give an acoustical feedback (see col. 5, lines 22-36 where audio is discussed).

Regarding claim 4, Mercer discloses the means for giving a feedback of the sorting order and/or the playback order give an optical feedback (see col. 5, lines 22-36 where the image sequence is discussed).

Regarding claim 5, Mercer discloses the means for giving a feedback of the sorting order and/or the playback order include a display (see fig 10, #188).

Regarding claim 6, Mercer discloses the display displays information about at least one multimedia file of the plurality of multimedia files (see col. 9, lines 9-32 where the display of title, author, song, etc is discussed).

Regarding claim 7, Mercer discloses the display displays information about at least two multimedia files of the plurality of multimedia files, and wherein means are

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provided for marking a currently selected multimedia file (see col. 9, lines 9-32 where the display of title, author, song, etc is discussed; also col. 19, lines 49 to col. 20, line 6).

Regarding claim 21, Mercer discloses the properties of the multimedia files used for determining the sorting order and/or the playback order are user-definable (see col. 20, lines 7-41 where user selection is discussed).

Regarding claim 22, Mercer discloses the properties of the multimedia files used for determining the sorting order and/or the playback order are included in the multimedia files (see col. 9, lines 9-32 where the display of title, author, song, etc is discussed).

Regarding claim 23, Mercer discloses the properties of the multimedia files used for determining the sorting order and/or the playback order are stored in the device for playback of multimedia files (see col. 20, lines 7-41 where the music library is discussed).

Regarding claim 24, Mercer discloses the properties of the multimedia files used for determining the order include at least one of artist, album, genre, release year, number of accesses, last access, creation date, length, and weighting (see col. 9, lines 9-32 where the display of title, author, song, etc is discussed; also col. 19, lines 49 to col. 20, line 6).

Regarding claim 25, Mercer discloses a method for creating a playback order for a playback device comprising the steps of:

playing back a multimedia file on said device (see col. 4, lines 1-27 where multimedia playback software and devices are discussed);

creating a first playback order of a first plurality of multimedia files in response to a first user activated command and a first property of said multimedia file being played back (see fig 3 where "GROUP 1" "GROUP 2" and "GROUP 3" play lists are shown; also see col. 5, line 64 to col. 6, line 21 where it is discussed that a play list can be grouped by album, artist, genre or date); and

creating a second playback order of a second plurality of multimedia files in response to a second user activated command and a second property of said multimedia file being played back where said second property is different than said first property and second plurality of multimedia files contains at least one multimedia file which is different than the multimedia files in said first plurality of multimedia files (see fig 3 where "GROUP 1" "GROUP 2" and "GROUP 3" play lists are shown; also see col. 5, line 64 to col. 6, line 21 where it is discussed that a play list can be grouped by album, artist, genre or date; Examiner notes that it is possible that each of GROUP 1, GROUP 2 and GROUP 3 could contain different multimedia files if user creates a play list where all songs are grouped by artist or another play list where all images are grouped by month; Applicant's claim language does not require that the first and second plurality of multimedia files be contained in the same play list).

Regarding claim 26, Mercer discloses the selection of said first and second properties are selected from a plurality of properties (see col. 5, line 64 to col. 6, line 21 where it is discussed that a play list can be grouped by album, artist, genre or date) and an order of properties in said plurality of properties is predefined so that the selection of

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said property will come before the selection of said second property (see col. 6, lines 14-21 where sequential navigation of a group is discussed).

Regarding claim 27, Mercer discloses the selection of said second property will come before said first property in the order of said properties only if a user selects a reverse order option (see col. 6, lines 14-21 where sequential navigation- “forward and backward”- of a group is discussed).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mercer.

Regarding claims 18-20, Mercer does not explicitly disclose the means for changing the sorting order and/or the playback order of the currently selected multimedia file. However, Official Notice is taken that the use of a specific button or multiple buttons for rearranging the playback order of a multimedia file is well known in the art. It would have been obvious to an artisan at the time of the invention to include any variation of such a feature with Mercer’s multimedia player as a matter of design choice.

Response to Arguments

8. Applicant's arguments filed 2/4/2009 have been fully considered but they are not persuasive.

Regarding Applicant's arguments concerning Mercer failing to disclose the new sorting/playback order is determined by at least one property of the currently selected multimedia file, the Examiner respectfully disagrees.

As currently written, Applicant's claim language is so broad the prior art could be interpreted to read on it. For instance, in claim 1, Applicant is merely claiming that a sorting/playback order is determined by user selection of a property of a selected multimedia file. That property could be the name of an artist, album title, genre, etc. Similarly, Mercer is capable of changing the sorting order of a play list by artist, album or genre (see fig 7 and col. 5, lines 22-36 where shuffling and repeating play lists is discussed).

However, Examiner notes that the novel feature of Applicant's invention as described in the specification allows user to select a multimedia file currently displayed in a play list and sort files of an entire library of multimedia files. That is, not only would files currently displayed in the play list be rearranged (or even removed), but files that are not shown in the play list would be displayed in the selected sorting order (see page 8, line 12 to page 9, line 17).

Applicant's claim language fails to explicitly recite that the "new sorting/playback order" includes files that are not currently displayed in the play list.

Regarding Applicant's arguments concerning the Examiner's use of Official Notice failing to teach the features of claims 18-20, the Examiner respectfully disagrees. In light of the broadness of Applicant's independent claim 1, the Examiner contends that the use of a specific button or multiple buttons for rearranging the playback order of a multimedia file is well known in the art.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to RASHAWN TILLERY whose telephone number is 571-272-6480. The examiner can normally be reached on M-F 8:30 AM - 4:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hong can be reached on 571-272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/RASHAWN TILLERY/
Examiner, Art Unit 2174

/Adam L Basehoar/
Primary Examiner, Art Unit 2178